

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JIMMIE LEE HARRISON,

Plaintiff,

vs.

WILLIAM PITTMAN, *et al.*,

Defendants.

Case No. 1:09-cv-333

Hon. Gordon J. Quist

ORDER

Plaintiff has filed a prisoner civil rights action pursuant to 42 U.S.C. § 1983. This matter is before the court on his “motion to proceed with discovery” (docket no. 41).

Defendants filed a motion for summary judgment and moved to stay discovery. On June 2, 2010, the court granted defendants’ motion to stay discovery pending the resolution of their dispositive motion, which raises various preliminary matters including claims of immunity. *See* Order (docket no. 46). The court’s order staying discovery rendered plaintiff’s present “motion to proceed with discovery” moot.

Furthermore, plaintiff’s claim that he needs discovery to dispute defendants’ motion for summary judgment is without merit. Pursuant to Fed. R. Civ. P. 56(f), a party opposing a motion for summary judgment is allowed to seek relief on the ground that he is unable to present facts essential to justify his opposition to the motion. *See Wallin v. Norman*, 317 F.3d 558, 564 (6th Cir. 2003). The non-moving party bears the burden to establish why more discovery is needed. *Id.* In such a situation, the court may permit further discovery so that the non-moving party can adequately oppose the motion. *Id.* Here, plaintiff is not entitled to additional discovery. Plaintiff responded

to the motion for summary judgment, having filed a 14-page response and produced exhibits to oppose defendants' motion. *See* docket no. 34. In addition, plaintiff does not provide any explanation for his alleged inability to respond to the issues raised in defendants' motion. Rather, plaintiff's affidavit merely states that he has not had an opportunity to take depositions or serve interrogatories, and that he wrote a letter to the Better Business Bureau regarding his belief that defendants Pittman and Simpson had a business relationship. *See* "Affidavit from Jimmie Harrison #188387" (docket no. 41). Plaintiff's statements do not establish that he is unable to respond to defendants' pending motion for summary judgment.

Accordingly, plaintiff's motion to proceed with discovery (docket no. 41) is **DENIED.**

IT IS SO ORDERED.

Dated: June 18, 2010

/s/ Hugh W. Brenneman, Jr.
HUGH W. BRENNEMAN, JR.
United States Magistrate Judge